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ELI ATTIA AND ELI ATTIA ARCHITECT PC

*Of Counsel* \*For identification purposes only

or other parties noted on signature



Eli Attia and Eli Attia Architect PC,

Plaintiffs,

v.

Google, Inc., Flux Factory, Inc., Larry Page,  
 Sergey Brin, Sebastian Thrun, Eric "Astro"  
 Teller, Michelle Kaufmann, Jennifer Carlile,  
 Augusto Roman, Nicholas Chim, and DOES 1-  
 100,

Defendants.

Case No. 5:17-cv-06037-BLF

Honorable Beth Labson Freeman

**STIPULATION FOR ENTRY OF ORDER  
 OF DISMISSAL**

1           Plaintiffs Eli Attia (“Mr. Attia”) and Eli Attia Architect PC (“Attia PC”) (collectively,  
2 “Plaintiffs”) hereby stipulate to the entry of the attached Stipulated Order of Dismissal as follows.

3           1.       This is an action brought by Eli Attia and Eli Attia Architect PC (“Plaintiffs”)  
4 against Google, Inc., Flux Factory, Inc., Larry Page, Sergey Brin, Sebastian Thrun, Eric “Astro”  
5 Teller, Michelle Kaufmann, Jennifer Carlile, Augusto Roman, Nicholas Chim, and DOES 1-100  
6 (collectively “Defendants”). Plaintiffs are asserted asserting (1) a state law claim for breach of  
7 contract against Google, (2) a state law claim for misappropriation of trade secrets against all  
8 Defendants, (3) a claim for theft of trade secrets under the Defend Trade Secrets Act, 18 U.S.C. §  
9 1836(b)(1) (“DTSA”) against Defendants Google and Flux, and (4) a claim under the Racketeer  
10 Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. §§ 1961, *et. seq.* Defendant  
11 Google has asserted state law based counterclaims against Plaintiffs. None of the Defendants have  
12 asserted counterclaims against the Plaintiffs under any federal law.

13           2.       This Court has original subject matter jurisdiction over the claims based on the  
14 DTSA and RICO based upon 28 U.S.C. § 1332, and supplemental jurisdiction over the state law  
15 claims and counterclaims under 28 U.S.C. § 1367(c).

16           4.       On June 13, 2018, the Court issued its Order (1) Granting with Leave to Amend  
17 Defendants’ Motions to Dismiss RICO Claims in the Fourth Amended Complaint and (2) Denying  
18 Plaintiffs’ Partial Motion to Remand (the “Motion to Dismiss Order”).

19           5.       Pursuant to the Court’s Motion to Dismiss Order, Plaintiffs have filed a Fifth  
20 Amended Complaint revising certain allegations in response to the Court’s statements at the March  
21 8, 2018, hearing on Defendants’ Motions to Dismiss and the Court’s Motion to Dismiss Order.

22           6.       In view of the Court’s Motion to Dismiss Order and for purposes of this stipulation  
23 and any resulting appeal only, Plaintiffs stipulate that, under the Court's Motion to Dismiss Order,  
24 Plaintiffs cannot prevail on their claims against Defendants Google and Flux in the Fifth Amended  
25

1 Complaint under the DTSA and RICO. Therefore, Plaintiffs stipulate and agree to the entry this  
2 stipulated order of dismissal for the purpose of enabling them to appeal the dismissal of those  
3 claims as stated in the Court's Motion to Dismiss Order. In view of this stipulation, Plaintiffs'  
4 claims against Defendants Google and Flux in the Fifth Amended Complaint under the DTSA and  
5 RICO should be dismissed with prejudice and their state law claims against Defendants and the  
6 state law counterclaims of Defendant Google against them are remanded to the state court for lack  
7 of subject matter jurisdiction.

8         7. This stipulated order of dismissal is without prejudice to Plaintiffs' ability to appeal  
9 the Court's Motion to Dismiss Order and the order dismissing with prejudice Plaintiffs' claims  
10 under the DTSA and RICO based in whole or in part on that order. Moreover, if the Court's  
11 Motion to Dismiss Order is not affirmed on any appeal and this matter is remanded, the parties  
12 shall have all rights to pursue any claims or defenses they could have asserted had they not entered  
13 into the stipulation.

1 Dated: August 13, 2018

2 **BUETHER JOE & CARPENTER, LLC**

3 /s/ Eric W. Buether

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